

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STEPHEN JOHN CASEY, SR.,

Petitioner,

v.

STEVEN O'BRIEN,

Respondent.

Civil Action No. 04-11940-PBS

**RESPONDENT'S RE-FILED MOTION FOR A FURTHER ENLARGEMENT
OF TIME WITHIN WHICH TO FILE BRIEF IN OPPOSITION TO PETITION**

The Respondent, Steven O'Brien, in his capacity as Superintendent of the North Central Correctional Institute at Gardner, Massachusetts (the "Respondent"), hereby respectfully moves this Court to enlarge until April 11, 2005 the time in which he must file a brief in opposition to the petition for a writ of habeas corpus (the "Petition") filed by Petitioner Steven John Casey, Sr. (the "Petitioner"). The Respondent's brief was due on April 4, 2005. The Respondent filed a motion substantively identical to the instant Motion by hand on April 4, 2005, but the Court rejected it on the grounds that it was not filed electronically asked that it be re-filed electronically. In support of this Motion, the Respondent states as follows:

1. The Petition arises from a 1999 conviction in the Bristol County, Massachusetts, Superior Court.
2. The Petition includes serious allegations and references complex areas of law.
3. On December 27, 2004, the Respondent filed a Motion to Dismiss the Petition on the grounds that the Petitioner failed to satisfy the statutory requirement that he fully exhaust state remedies prior to filing his Petition.

4. On December 30, 2004, this Court entered an order directing the Petitioner to file a brief in support of the Petition and the Respondent to file a brief in opposition to the Petition. The Petitioner's deadline for filing his brief was originally January 27, 2005 and, upon motion, was extended by one month. The Petitioner filed his brief on January 31, 2005. The Respondent's deadline for filing his brief was originally February 28, 2005 and, upon motions, was extended to April 4, 2005.

5. In his brief, the Petitioner has attempted to incorporate all those arguments raised in the brief that he filed with the Massachusetts appellate courts in connection with conviction under attack. He has thus sought to substantially expand the scope of the issues originally raised in his Petition.

6. This Court also ordered the Petitioner to respond to the Respondent's Motion to Dismiss by March 5, 2005. To date, the Respondent has not received any response to the Motion to Dismiss, and a review of the Court's docket does not list any such response as having been filed.

7. The Respondent previously requested additional time for the filing of his brief in part to enable him to take into account the arguments that would be advanced by the Petitioner in his response to the Respondent's Motion to Dismiss. As noted above, however, a response has still not yet been received.

8. While the Respondent would benefit from the opportunity to address the Petitioner's arguments in response to the Motion to Dismiss, if no such response is received by April 11, 2005, the Respondent will nevertheless file his brief in the interest of avoiding further delays.

9. Allowance of this Motion will enable counsel for the Respondent to aid the Court most thoroughly and effectively and will not prejudice any party.

WHEREFORE, the Respondent requests that this Court enlarge the time in which he must file his brief in opposition to the Petition until April 11, 2005.

Respectfully submitted,

THOMAS F. REILLY
Attorney General

/s/ Randall E. Ravitz
Randall E. Ravitz (BBO # 643381)
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, ext. 2852

Dated: April 8, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Respondent's original motion dated April 4, 2005 was served on April 4, 2005 by first-class mail, postage prepaid, and a true copy of this re-filed motion was served on April 8, 2005 by first-class mail, postage prepaid, upon:

Stephen John Casey, Sr.
W-67232
North Central Correctional Institute
500 Colony Road
P.O. Box 466
Gardner, MA 01440

pro se

/s/ Randall E. Ravitz
Randall E. Ravitz